IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE SEVENTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE L.NARASIMHA REDDY

WRIT PETITION No: 1466 of 2005

Between:

Pallela Ranga Rao, S/o. Ramachandra Rao @ Narayana Rao, Shop No.3, Khanapur Village and Mandal, Warangal District.

..... PETITIONER

AND

1 The District Collector, Warangal.
2 The Revenue Divisional Officer, Narsampet, Warangal District.
3 The Mandal Revenue Officer, Khanapur Village and Mandal, Khanapur, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to pass an order or direction or writ under Article 226 of the Constitution of India, more particularly one in the nature of Writ of Mandamus declaring the action of the first respondent in not considering the application filed by the petitioner for interim suspension of the order passed by the second respondent in Rc.No.E/584/2004 dated 2-1-2005, pending disposal of the appeal No.3 of 2005 filed before the first respondent, as illegal, arbitrary, bad and against the principle of natural justice and pass such other and further order or orders

Counsel for the Petitioner: MR.C.DAMODHAR REDDY

Counsel for the Respondents: GP FOR CIVIL SUPPLIES

The Court at the admission stage made the following:

ORDER:

The petitioner was selected and appointed as a dealer for fair price shop No.3 of Khanapur Village by the 2nd respondent through his proceedings, dated 30.05.2002. He was functioning since then. The 2nd respondent received certain complaints against the petitioner, mainly to the effect that he is not a resident of Khanapur Village. There upon, the 2nd respondent issued a show cause notice, dated 09.06.2004. It was alleged that the petitioner is not a resident of the village and that the essential commodities are being supplied by unauthorized persons. The petitioner submitted his explanation denying the allegations. On a consideration of the same, the 2nd respondent cancelled the authorization of the petitioner, through his proceedings, dated 02.01.2005. Aggrieved thereby, the petitioner preferred an appeal before the 1st respondent together with an application for stay. The grievance of the petitioner is that the 1st respondent has not passed any order in the application for stay so far.

Learned counsel for the petitioner submits that the order passed by the 2nd respondent cancelling the authorization of the petitioner suffers from basic infirmities. He contends that the petitioner categorically stated in his explanation that he is a resident of Khanapur Village and enclosed copies of the voters' lists of that village, which contained his name and still no reference was made to it. He submits that even assuming that the name of the petitioner is included in the voters' list of a different village, the same cannot be a factor to conclude that the petitioner is not a resident of Khanapur Village. He urges that the impugned order was passed against the petitioner on account of political pressure.

Learned Government Pleader for Civil Supplies submits that once the authorization of the petitioner is cancelled, it is not advisable to permit him to function as dealer and by the very nature of things, no interim orders can be expected from the 1st respondent.

The petitioner availed the remedy of appeal aggrieved by the order of cancellation of

his authorization. His present grievance is about the non-consideration of the application for stay by the 1st respondent.

It is true that, as contended by the learned Government Pleader for Civil Supplies, grant of interim orders in an appeal preferred against the order of cancellation of authorization or appointing an individual as dealer is a rarity. The validity or otherwise of such orders can be considered only at the time of final hearing. If, for instance, where the order of cancellation is passed by an authority not vested with the power, where it is not preceded by a show cause notice and where the order itself discloses any basic infirmity or non-application of mind, the appellate authority can certainly consider the feasibility of passing interim orders.

In the instant case, the basic allegation against the petitioner is that he is not a resident of Khanapur Village, in which the fair price shop is located. The other allegation is incidental or ancillary to this.

The 2nd respondent adopted the correct procedure soon after he received complaints against the petitioner. A show cause notice was issued and the petitioner was required to explain. In his explanation, the petitioner denied the allegations against him. In addition, along with his explanation, the petitioner filed voters' lists of Khanapur Village, wherein his name is included. The impugned order discloses that the 2nd respondent was impressed mostly by the report submitted by the Mandal Revenue Officer and the extract of voters' list of another village by name Bojjannapet. Even if that is true, a finding ought to have been recorded as to the truth or otherwise of the voters' lists of Khanapur village. In fact the voters' lists are prepared and issued in the name of the concerned Revenue Divisional Officer. There are no allegations of diversion of the essential commodities to black market or any irregularities in the matter of distribution of essential commodities.

In view of these reasons, this Court is of the view that the petitioner deserves to be continued as dealer, till the disposal of the appeal by the 1st respondent.

The writ petition is accordingly disposed of, directing that the order of cancellation passed against the petitioner shall remain stayed, till the disposal of the appeal preferred by the petitioner before the 1st respondent and the 1st respondent shall dispose of the appeal as early as possible and not later than six weeks from the date of receipt of this order. There shall be no order as to costs.

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07.02.2005

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To

1 The District Collector, Warangal.
2 The Revenue Divisional Officer, Narsampet, Warangal District.
3 The Mandal Revenue Officer, Khanapur Village and Mandal, Khanapur, Warangal District.

4 2 CCs to the G.P. for Civil Supplies, High Court of A.P., Hyderabad (OUT).

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